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Jaclyn L. Neo

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REGULATING PLURALISM: LAWS ON RELIGIOUS HARMONY AND POSSIBILITIES FOR ROBUST PLURALISM IN SINGAPORE

By Jaclyn L. Neo

> God help us against Jews and Christians.
>
> [Praying to Taoist deities is like] seeking protection from secret society gangsters.
>
> Muslims are taking over the south of Spain. … But I had a dream, where I will raise up the church all over Spain to push back a new modern Muslim movement.

These statements, uttered in some countries, may cause a small Twitter storm or, more likely, simply be shrugged off as unremarkable polemic uttered in religious fervor. But these three sentences, uttered in religiously and racially plural Singapore, invited more than a Twitter storm. It invited public disapproval and censure by the Singapore government for endangering social cohesion, or more specifically, for threatening "religious harmony."

The first was a prayer recited in Arabic by an imam in Singapore, which caused a stir and prompted police investigation after a video of it was circulated online (*The Straits Times* 2017). The imam was charged and pleaded guilty to promoting enmity between different groups on the grounds of religion, and committing an act prejudicial to the maintenance of harmony, an offense under Singapore's Penal Code (Toh 2017).

The second statement was uttered by a pastor of one of Singapore's mega-churches in 2008, some two years before the video was circulated online (*AsiaOne* 2010). It promptly drew criticism from the public and sparked an investigation by the internal security department. The matter blew over after the church removed

Abstract: This article examines the role of regulation in advancing a robust or "covenantal" pluralism in Singapore. I argue that a commitment to pluralism requires a regulated space where law provides a critical expressive role in setting out the boundaries of appropriate conduct as well as in modifying social norms. This is crucial to ensure that the dominant values of the religious majority do not hegemonize the common spaces to the exclusion of religious minorities. I examine the use of religious harmony laws in Singapore and its potential for framing the top-down aspect of the concept of covenantal pluralism.

Keywords: Pluralism, religious harmony, religious freedom, Singapore, regulation

the video and the pastor offered "his unreserved and unmitigated apology to the public for his insensitive comments" (*AsiaOne* 2010).

The third statement was made most recently, in 2018, by an American preacher who had been invited to speak at a Christian conference by a local church organizer (Zaccheus 2018). After a news outlet reported on his remarks (Lim 2018), the government issued a statement saying that firm action will be taken if there is evidence that statements had been made that could undermine religious harmony in Singapore or that had mixed religion and politics (Zaccheus 2018). The local church organizer in turn filed a police report against the news outlet for what it called a "scurrilous attack" on it, claiming that the news article contained inflammatory and serious allegations "that seek to, and has the effect of, stirring up religious tensions and promoting feelings of ill-will and hostility between Christians and Muslims" (Zaccheus 2018). In the end, the matter was resolved with the senior pastor of the local church organizer conveying a public apology for "the offence caused to the Muslim community," acknowledging that the speaker had been "insensitive" and that "the statement should have been avoided altogether" (*Rice Media* 2018).

How are we to evaluate these three incidents? Should they be condemned as violations of rights; as constriction of religious free speech and the violation of freedom of conscience; even as heavy-handed state persecution of religious groups? Or should they be seen as necessary restrictions in a religiously pluralistic society where certain types of speech are seen as acts that cause offense or even psychological harm, lower the dignity of religious groups in a society, and/or contribute to religious tension and social hostilities? Further, should the law regulate speech and conduct that rejects pluralism and engenders religious intolerance? Or should society rely on the good-faith, goodwill, and good sense of religious leaders to be respectful of different religious viewpoints and to embrace pluralism in society? Clearly, these are some questions that must be grappled with in deciding what type of society one wants to live in and how people are to live together under conditions of plurality, including religious plurality.

How diverse groups should live together peacefully is an issue that has captured the attention of scholars, policy-makers, and commentators for a long time. These range from political scientists interrogating social pluralism in America (e.g. Dahl 1961), legal-political scholars examining divided societies (e.g. Horowitz 1985), to constitutional scholars searching for institutional design to manage diversity (e.g. Choudhury 2008), and more. Fault lines in the discourse on pluralism include a divide between individual rights and community/social interests; between freedoms and government regulation; and between liberalism and communitarianism or even authoritarianism. A balance is necessary between context and universal values. While there is no single one-size-fits-all solution, we should also eschew extreme particularism, which could lead to claims of exceptionalism that serves to shield abusive practices from criticism.

Bearing these in mind, what are the possibilities for a robust, "covenantal" pluralism in Singapore? As defined by the Covenantal Pluralism Initiative (CPI) at the Templeton Religion Trust, the concept of covenantal pluralism is holistic, moving beyond mere "tolerance" to instead embrace "mutually respectful engagement with people of other faiths or no faith, a commitment to seeking joint solutions to shared problems, the absence of coercion, unfettered access to spiritual information, and the integration not assimilation of minorities," all of which occurs "on a level playing field" (Stewart 2018; see also Seiple 2018a, 2018b). As such the realization of covenantal pluralism in any given socio-political context will always involve both a "bottom-up" dimension (relational dynamics and social virtues in civil society) and a "top-down" dimension (legal parameters and norms designed to ensure equal religious rights and responsibilities for all—i.e. a "level playing field").

In this article, I will engage with this intersection of bottom-up and top-down dimensions, with a particular focus on the role of prudent legal regulation in the latter. I will argue that there is a need to embrace pluralism normatively, rather than see it merely as an

empirical social fact that needs to be managed. This entails a move from what Rosenfeld calls pluralism-as-a-fact to pluralism-as-a-norm (Rosenfield 2008). At the same time, I want to start a conversation about the role of regulation in the creation of robust normative pluralism. I argue that pluralism is too precious and also too precarious to be left to simply to the goodwill, good faith, and good sense of individuals and groups. Despite our best intentions, pluralism may not flourish in an unregulated space.

In any case, as I will discuss below, there is no such thing as an unregulated space in reality. Where law does not step in, social norms of dominant groups will regulate the social space. Law, particularly law committed to pluralism, can play an important expressive role in setting out the boundaries of appropriate conduct as well as in modifying social norms. Accordingly, the form and substance of the top-down approach is significant in shaping the social context of inter-group relations. At the same time, I want to highlight that religious and social groups are not merely receptors of values. They are also social agents whose social engagements and responses are crucial in supporting, resisting, and shaping the top-down perspective. There is a dialectical view of the relationship between the state and society, though bearing in mind that the two are not always of equal strength and influence.

The Singapore case is illuminating here because of the state's top-down commitment to pluralism as a norm, and the employment of law to pursue this norm and shape social behavior. This normative pluralism is framed in terms of "religious harmony." At the same time, religious groups have internalized pluralism as a norm, while employing the terms of that norm to make demands on the state and to shape the norms of pluralism. I have in an earlier article explored the internalization of religious harmony as a social norm, whereby its regulating function extends to inter-group claims as well as demands on the state (Neo 2019). I will briefly sketch out my arguments below but the primary focus of this article will be on the use of law to regulate social behavior to advance the claims of pluralism as a norm. In other words, the bulk of this article will focus on the top-down dimension and examine the potential for legal norms, as well as their limits. More specifically, I will examine the laws of religious harmony which have come to frame this top-down dimension in the regulation of pluralism.

But before I go on to discuss the laws and religious harmony in Singapore, I will first address, in the next section, a particular claim in religious freedom and religious pluralism scholarship that tends to oppose any governmental regulation and regard such regulations as necessarily restrictive of religious freedom and liberties.

Regulation as Freedom?

There is an entrenched assumption in some religious freedom discourse that *any* state regulation of religion is inimical to religious liberty. This stems from a particular idea of religion, which is described in Locke's *A Letter Concerning Toleration* as essentially an internal matter: "true and saving religion consists in the inward persuasion of the mind, without which nothing can be acceptable to God" (Locke 1991 [1689]). The church, Locke argues, should be a "free and voluntary society" (Locke 1991, 20), removed from the functions of the state, and left to *private* regulation and choice. Religious freedom jurisprudence over time has been developed to emphasize negative liberties, asserting protection against state encroachment. It is intertwined with a separationist claim or requirement for state neutrality on the basis that the state would have less incentive to persecute religion to impose religious uniformity and thereby would have greater commitment to religious freedom.

Grim and Finke claim in a 2011 book that "government restriction of religious freedom holds a powerful and robust relationship with violent religious persecution" (Grim and Finke 2011). This inverse correlation between regulation and religious freedom appears to also underlie the Pew Research Center's influential global studies of restrictions on religion, which employ two indices, the Government Restrictions Index (GRI) and the Social Hostilities Index (SHI), together. The Global Restrictions on Religion Project's 10th Annual Report concluded

that there has been an overall increase in government restrictions between 2007 and 2017 in four categories—favoritism of religious groups, general laws and policies restricting religious freedom, harassment of religious groups, and limits on religious activity. At the same time, it also concluded that there is rising religious violence by organized groups as well as hostilities related to religious norms, although there is an overall decline in interreligious tension and violence in the ten years studied (Lipka and Majumbdar 2019).

The correlation between the GRI and SHI however is not always clear, and suggests at least three claims worth exploring. The first is that there are myriad laws which could be coded under the four categories for the GRI, but which may themselves have very different regulatory impact depending on the context and the nature of those laws. The second is that there may be a gap between laws on the books and laws in action. This means that even if the laws of the state may seem highly restrictive of religious freedom, in practice these laws may not be enforced, whether intentionally or unintentionally. As I will discuss in the context of Singapore, the law's primary function may be expressive. Thirdly, it may well be that, contrary to Grim and Finke's claims, certain laws that proscribe religious behavior, particularly those on public order grounds or that regulate some forms of hate speech, may well be crucial in guarding against social hostilities.

It is not the aim of this article to interrogate the data in the report and the correlation between government restrictions, on the one hand, and interreligious tension and violence, on the other. However, one might note that the majority of countries that were ranked "very high" on the GRI in the 10th Annual Report scored "moderate" or "low" on the SHI. Among these countries is Singapore; Singapore scored "very high" on the GRI and only "moderate" on the SHI (Pew Research Center 2019). This must at least pique some interest. Indeed, Grim and Finke's 2011 book classifies Singapore as a country that views religion as a threat, noting fairly high average levels of government restriction of religion (7.5 on a scale of 0–10 with 10 being the highest) (Grim and Finke 2011, 122). However, in spite of the high levels of government regulations, Singapore had extremely low levels of social restriction of religion (1.3 on a scale of 0–10 with 10 being the highest) and relatively low level of persecution (3.0 on a scale of 0–10 with 10 being the highest).

This suggests that the relationship between regulation and freedom is much more complex in practice. Not all regulation results in an overall decrease in the levels of religious freedom in practice; and not all non-regulation ensures high levels of religious freedom in practice. Furthermore there is a question of who is being protected. The lack of regulation can favor the powerful and the dominant, as they are most able to defend themselves against hostile attacks in a free market of ideas. This means that the lack of regulation itself may undermine the actual practice of religion. For instance, where there are no laws regulating hate speech, religious groups, particularly non-dominant minority groups, could find their religious freedom greatly circumscribed in practice. Adherents may also suffer psychological and emotional harm due to hostility against them, undermining the quality of their religious practice.

At the same time, one has to get away from the assumption that as long as laws do not directly regulate religion, there is no "regulation" of religion. Any legal system imposes constraints on the behavior of those living within its jurisdiction. Religious constituents operate within societies regulated by law and these laws will have an impact on religion. Thus, laws on registration of societies, on the granting of charitable status, on land zoning, on taxation, on noise pollution, and even on traffic control all have an impact on how adherents practice religion, individually and collectively. This is the case even if such laws are neutrally worded. In fact, there are times when neutrally framed laws could have disproportionate impact on certain religions and certain religious practices.

Moreover, the determination of whether a particular right is protected depends very much on the background consensus and dominant values that shape our conception of the freedom. Consider for instance the critical analysis that Elizabeth Shakman Hurd has applied to religious

freedom. Hurd has argued, for instance, that religious freedom advocacy, especially at the level of international law, has a tendency to take on a reductionist perspective on religion which could have adverse consequences on the "lived religion" of individuals and groups outside of the usual Catholic/Protestant frame (Hurd 2015). A more trenchant critique is that religious freedom advocacy is fraught with ideological biases and has become a tool of hegemonic control, especially by the modern West (Sullivan et al. 2015). Plurality itself is not an open-ended state; Connolly points out that one has to also consider the "the politics of becoming by which new constituencies struggle to modify the register of legitimate diversity" (Connolly 2005).

How laws, even neutrally worded ones, operate will affect the nature of pluralism in a society. For instance, in advocating for "confident pluralism," which he argues allows us to "live with each other in spite of our deep differences," Inazu (2016) points to constitutional jurisprudence which he says has not sufficiently protected pluralism in America. His analysis of existing constitutional jurisprudence, including on the right of association and public funding, shows not only that general laws do affect religious practice and social pluralism, but also that these seemingly "neutral" laws could have an adverse impact on pluralism. The proposal is not to do away with any laws, but for these laws to be applied in a way that serves the purpose of ensuring robust pluralism. Inazu exhorts "those charged with enforcing our laws [to] do better in preserving and strengthening our constitutional commitments to voluntary groups, public forums, and certain kinds of generally available funding" (Inazu 2016, 125). Nonetheless, Inazu still places primary emphasis on individual and collective goodwill and responsibility, arguing that there needs to be "tolerance for dissent," "a willingness to endure strange and even offensive ways of life," as well as "a skepticism of government orthodoxy" (Inazu 2016, 125).

Pluralism "requires a set of civic virtues to support itself" (Connolly 2005). While it may be most desirable to obtain this civic virtue by social consensus, this may not be realistic, especially in societies divided by ethnicity/race, religion, language, culture, etc. One is drawn to Böckenförde's insight that the liberal state, committed to religious and ideological neutrality, cannot guarantee its own prerequisites and ensure social solidarity (Böckenförde, Künkler, and Stein 2020; Künkler and Stein 2018). The question is how to establish and maintain these civic virtues. In this regard, I argue that law plays an important role in establishing strong structures and norms in ensuring robust pluralism, and not any law. The key question should not be whether there are regulations of religion, but how to ensure that such restrictions are in pursuance of legitimate public interests and are proportionate.

Once we accept that some regulation of pluralism could be appropriate, we can then meaningfully examine what controlling principles could advance the cause of freedom, broadly construed. Drawing from the Singapore approach, I examine the use of religious harmony as a controlling principle in Singapore. To be sure, there is a danger that such laws could be instrumentalized to perpetuate majoritarian interests. Regulating pluralism could be used as an insidious tool for state control and coercion. One can point for instance to Nader's powerful critique of harmony, which she argues serves as a rhetorical tool for state control and coercion (Nader 1991, 2). What is especially insidious and coercive about harmony, she argues, is that there is a "general acceptance of harmony as benign" (Nader 1996, 11). However, I have also argued that religious harmony in a secular state can be consistent with religious freedom protection if it operates within four conditions: first, a rejection of political dominance by any one religious group; secondly, a commitment to equal access to citizenship without regard to religious identity; thirdly, the recognition of a right to religious freedom, even if such a right is not regarded as fundamental; fourthly, a commitment to protect religious freedom as part of its public good (Neo 2017). This means that religious harmony, as a principle of normative plurality, not only has to be balanced against religious freedom, but must see religious freedom as a necessary condition for religious harmony.

The Laws of Religious Harmony in Singapore

To draw from another Pew Research Center data point, its 2014 Religious Diversity Index report, it is significant to note that Singapore was ranked the most religiously diverse country among the 232 countries studied (Pew Research Center 2014). Its high score reflects the spread of religions across its population. About a third of Singapore's population is Buddhist (34 percent), while 18 percent are Christian, 16 percent are religiously unaffiliated, 14 percent are Muslim, 5 percent are Hindu, less than 1 percent are Jewish, with the remainder belonging to folk or traditional religions (2 percent) or to other religions (making up 10 percent as a group) (Singapore Department of Statistics 2016). This broad diversity means that no single group has a clear majority in the country. On the face of it, Singapore's high religious diversity score may, on initial assessment, make it seem that peaceful coexistence and stable social cohesion may be difficult, if not impossible. This is especially since religious identity is often closely associated with racial/ethnic identity, such that race and religion could constitute mutually reinforcing cleavages. Indeed, there is some evidence that those with a religious identity may feel a stronger sense of racial identity compared to those without (Chan 2001; Goh 2017, 17). Bearing these in mind, Singapore's approach to pluralism, which has managed to keep social hostilities moderate, even low, deserves closer analysis.

Singapore has one of the most, if not most, sophisticated approaches to regulating religious pluralism. These regulations are framed in terms of religious harmony, which has attained the status of a constitutional norm in Singapore (Neo 2019). The foundational claim is that inter-religious and inter-racial harmony is an *existential* issue for Singapore (Loh 1998). The historical context of racial-religious strife in pre-independence Singapore is often invoked to underscore the importance of this public interest. Reference is often made to the 1950 Maria Hertogh riots (Stockwell 1986; Aljunied and Muhd 2009) and the 1964 racial riots (Leifer 1964; Lau 2000) as "teaching points" to highlight the "real potential" of violence fomenting from a racial-religious base. Singapore's racial-religious diversity is therefore portrayed as a source of a deep social cleavage (Lijphart 1977) that has to be carefully managed in order to prevent politicization and conflict. Religious radicalism and polarization are frequently invoked in political discourse to emphasize the public interest in religious harmony.

To be sure, critics argue that the persistent emphasis on racial-religious harmony reifies racial-religious distinctions (Ackermann 1996/97, 451) and serves as a grid of social control (Goh 2017). Others argue that it could serve to legitimate authoritarian power. As Rajah argues, for instance, the Singapore state tends to present itself as "secular, rational and modern" in contrast to religion, portrayed as "counter-national, counter-modern" (Rajah 2012). The state is thus frequently portrayed as "the antidote to dangerous irrationalities of 'race' and 'religion'." Furthermore, law is used as an important medium through which to contain "threatening" race-based and/or religion-based activities (Rajah 2012, 220). Ironically, this is consistent with the state narrative that religious harmony is not a natural state of things and that without state intervention, the tendency is for religious and ethnic groups to fight with one another.

Chief among the Singapore government's legislative levers is the Maintenance of Religious Harmony Act (MRHA), a statute passed in 1990 with the stated aim of guarding against the mixing of religion and politics. The law empowers the Minister to issue restraining orders against religious leaders or persons of influence in a religious institution to prevent them from speaking on particular topics (Thio 1997). It specifically targets what the government saw as an increasingly common phenomenon of religious leaders using the pulpit as a platform for political activism (Singapore Parliamentary Debates 1989, col. 636; Maintenance of Religious Harmony White Paper 1989, 3–7). The law empowers the Minister for Home Affairs to issue a restraining order against a religious leader or a member of a religious institution for up to two years from addressing a particular topic or theme that promotes a political cause, is subversive, excites disaffection against the state, and/or causes hostility among religious groups under the

guise of religious speech. If this restraining order is flouted, the person against whom the order was made would be subject to criminal sanctions.

The government identified two factors for legislating religious harmony. The first is "heightened religious fervour amongst all religious groups," which, it argues, could result in increased competition for new followers. This heightened competition is seen as problematic as it "increases the possibility of friction and misunderstanding among different religious groups" (Singapore Parliamentary Debates 1990, col. 1127). The second is the presence of religious leaders who display intolerance towards other religions. Among the examples of religious intolerance put forward in the legislative debates were: "a Muslim priest denouncing Christianity as the most foolish religion"; "Christian groups pasting posters announcing a forthcoming seminar outside a Hindu temple"; "Protestant pamphlets denigrating the Roman Catholic church and the Pope"; saying "another person's religion is a greater threat to mankind than communism"; or saying "the head of the Catholic church, the Pope, is the anti-Christ" (Singapore Parliamentary Debates 1990, col. 1049).

Besides intolerant speech that could offend, another source of disharmony identified was the "mixing" of religion with politics. This is a very specific idea of mixing; the concern is that since religious leaders have tremendous influence over their followers, their political statements would be clothed with divine authority, thereby giving them political influence over their adherents. This could further lead to religious leaders and groups competing for political influence:

> When one religious group involves itself in this way in political issues, it must follow that other groups will do the same. And various groups will want to outdo each other. Then again, when that happens, what would the party in power, or for that matter all other political parties, do? Can they be expected to be quiet? Surely they will look for religious groups and their flocks to back them up. The end result surely is obvious. It is inevitable that there will be collision between the different religious groups and the Government leading to instability and conflict. It is extremely important therefore that priests and other religious leaders do not mix religion and politics and mount political campaigns. (Singapore Parliamentary Debates 1990, col. 1050).

Notably, the MRHA places greater burdens on religious leaders as it restrains even speech made from the pulpit, i.e. within the confines of religious institutions and places of worship. The justification for this is that religious leaders are seen as bearing greater responsibilities because of their influence within religious organizations. Singling them out, the government contends, is justified, analogizing to how judges and civil servants are restrained from active politics (Maintenance of Religious Harmony White Paper, para. 23).

It would be a mistake to think that religious groups simply acquiesced to this law (Sinha 2005). Christian and Muslim groups objected that the law could unduly restrict them from providing their views on social policy, even on issues that could be seen as falling within their religious domains. In response, the government clarified that the MRHA was not meant to target policy disagreements and assured religious groups that they could continue to engage the government in a variety of educational, community, and social works (Tamney 1996). Furthermore, the government emphasized that it views religion as a "positive factor" in society and that members of religious groups remain free to participate in the democratic process as *individual citizens* (Tamney 1996). One important aspect of the government's response is its recognition that it is not possible or desirable for religious adherents to have to compartmentalize their minds and self into secular and religious halves (Maintenance of Religious Harmony White Paper 1989). Thus, even while the law on the books appears to sanction all religious behavior that could be seen as "political," the resulting understanding is, arguably, more nuanced. Religious groups are assured that their contributions to the social life of Singapore are welcomed, and that their views on policy matters would be legitimate, though not determinative.

The MRHA has never been invoked though there were occasions in the past where it was threatened to be invoked. It however sits within a

framework of other laws, which have been more often employed. The first is the Sedition Act, which criminalizes, among others, the causing of ill-will and hostility among different races and classes. The reference to race has been assumed to include religion. In addition, there is a chapter in the Penal Code, a British era law, containing offences against race and religion. While these laws have been employed in the past against speech and conduct deemed to be against religious harmony, they have been relatively rare, though no less impactful.

The MRHA is most powerful in how it has reconstructed norms and changed the social meaning of action (Neo 2019). While it creates obligations backed by legal sanctions, the strength of the law has always been in its expressive power. The MRHA affirms and strengthens norms associated with religious harmony while it rejects and weakens norms seen to be threatening to religious harmony. The expressive power of law lies in its ability to make statements about value and alter social norms (Sunstein 1996). As Carbonara points out, law can create new "focal points" drawing attention to certain actions and changing individuals' expectations about other people's behavior (Carbonara 2017, 466). Laws can also change preferences, prompting individuals to "internalize" the values embodied in the law (Carbonara 2017, 466). Thus, laws can inculcate "the expectation of social opprobrium and, hence, shame in those who deviate from the announced norm" (Sunstein 1996).

The principles of religious harmony could be said to have been internalized in Singapore. The MRHA has been crucial in this process, supported by other non-legal efforts, to transform imposed obligations into socially desirable norms. It has been a major plank in the government's constructed agenda of religious harmony as a constitutional principle.

Religious Harmony: Correlative, Contextual, and Communitarian

There is something powerful about the idea of religious harmony and its potential for managing religious pluralism. This is because harmony is commonly associated with at least three characteristics with great salience to pluralism: it is *correlative*, *contextual*, and *communitarian*. First, on correlation, harmony is a relational concept that "presupposes the coexistence of multiple and diverse parties" (Li 2009, 38). It involves the commingling of distinct communities, sometimes in alignment and other times in opposition (Cross 2014, 166). As a governing principle, religious harmony presupposes correlation between religious groups, which is the idea of being in a mutual relationship with corresponding rights and correlative duties, whether moral, ethical, or legal. This correlative aspect is important. It places religious groups in a condition of mutual reliance, as they are seen as co-partners in ensuring peaceful coexistence. This correlation also ensures that each group is able to quickly perceive the impact of their own speech and acts on other groups. It could help to inculcate what Connolly calls the "virtue of relational modesty between proponents of different faiths and creeds" (Connolly 2005). Correlation would often require mutual respect and, more than that, mutual transformation to accommodate one another's differences.

HARMONY TENDS TO REQUIRE POLITICAL AND SOCIAL COMPROMISE

The second critical characteristic of religious harmony is that it is contextual, in that acts and decisions are taken after seeing things and judging things in relation and in context rather than in isolation or in even abstract (Li 2009, 38). Harmony is achieved in a given moment or context (Angle 2008, 79, 80). In discussing the idea of harmony in Confucian thought, for instance, Cheng points out that "[o]bjectively and realistically speaking, we cannot even specify causes and conditions of harmony and conflict without specifying the contexts of relationships in which harmony or conflict arises" (Cheng 2006, 38). Harmony therefore depends on the negotiated balancing of different interests, rather than of rights, claims, and entitlements at different points in time. This results in a pragmatic approach that allows for specific interests to be prioritized under some conditions.

Lastly, harmony is ultimately communitarian. It presumes community since only where there is a desire for community will harmony be necessary. Because of that, harmony tends to require political and social compromise,

rather than an insistence on individual rights and entitlements. It is a principle that could demand mutual tolerance and respect in service of community. It may entail foregoing one's rights in order to promote harmonious community as might be reflected in the Chinese saying "退一步海阔天空, 忍一時風平浪靜" (loosely translated as "taking a step back opens up one's horizon, momentary tolerance will bring peace").

Naturally, harmony has a dark side. The pursuit of harmony implicates the important question of how to accommodate differences, and whether it could be instrumentalized to perpetuate subordination of individuals and groups. At least three types of objections may be raised. First, harmony claims may lead to an undue discouragement or even strong suppression of any disagreement perceived to have a propensity to create conflict. As a regulating principle, harmony may tar all forms of conflict and disagreement as undesirable and threatening. Individuals who seek to protect their rights may then be criticized and opposed as causing disharmony to society, even if their claims are legitimate.

Secondly, an important criticism is that harmony may lead to the subordination of individual and even group interests over social, community, and/or even state interests. For some scholars, harmony is conceptualized as a clash between individual interests and rights with the community's, where the former has to be disciplined to conform to the social order (Cheng 2006, 38). Scholarly critique of the Confucian idea of harmony includes serious concern that harmony may ultimately collapse into unity and uniformity, whereby individual interests are sacrificed in favor of those of the community or nation (Peerenboom 1998).

Lastly and critically, demands for harmony may serve to delegitimize any fundamental criticism of the social order (Beyer and Girke 2015) and be used to perpetuate existing social hierarchy as those who criticize this may be seen as creating "disharmony." Nader points to "harmony ideology" as a way to coerce compliance while denying freedoms to marginalized communities (Nader 1991, 1996). As she puts it pithily, "harmony coerced is freedom denied" (Nader 2004, 252).

These criticisms go to the heart of a communitarian approach to pluralism. While communitarians have sought to recast the individual as necessarily encumbered and situated within society and community, they have always had to deal with the liberal critique that communitarianism tends to slide into authoritarianism. Indeed, many communitarian states have been described as authoritarian and have been lambasted for using the coercive powers of the state to encumber individuals for the sake of social order and harmony (Etzioni 2011, 327). This strong communitarian approach sees individuals as finding their role and meaning in service to the common good. However, while communitarianism can be instrumentalized in service of authoritarian aims, this is by no means inherent or inevitable. What is interesting is that even countries that have typically been portrayed as authoritarian communitarian have evolved to allow for more room for individual freedoms as to moderate their claims of hierarchy and uniformity. With regards to religious harmony, one surely cannot claim that harmony exists if religious minorities consistently have their rights violated and/or are regularly violently persecuted. It is by no means guaranteed, but religious harmony, much like religious freedom, could add to the discursive toolbox for resisting persistent heavy handed attempts to undermine religious pluralism in a country.

Scrutinizing New Amendments to the Maintenance of Religious Harmony Act

Without a doubt, all legal principles could be abused and used in a way that marginalizes the weak. One safeguard is for us to properly scrutinize harmony as a basis for legal sanction (Nader 1996, 12). With regards to the laws of religious harmony in Singapore, recent amendments to the MRHA in 2019 (passed but not presently in force) may raise some concerns, as they appear to expand the reach of the law. There are four categories of changes.

Firstly, the government will no longer be required to give 14 days' notice of its intention to make a restraining order against offensive speech as defined under the law. Instead, the government can issue a restraining order, which includes an order to take "all reasonably practicable steps" to ensure that the offending material is no longer available online (Maintenance of Religious Harmony (Amendment) Bill 2019, S8(7)). This change is aimed at allowing the government to be more responsive in curbing the spread of offensive material online.

Secondly, the law now contains provisions to prevent foreign interference in religious groups in Singapore. A new provision extends the basis for restraining orders against a religious group to situations where "it is necessary or expedient so as to pre-empt, prevent, or reduce any foreign influence affecting the religious group which may (a) undermine religious tolerance between different religious groups in Singapore; and (b) present a threat to the public peace and public order in Singapore" (Maintenance of Religious Harmony (Amendment) Bill 2019, S8(1A)). Every religious group must disclose any arrangement or agreement made with a "foreign principal" *and* under which "the religious group is accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions, or wishes of the foreign principal" or where the foreign principal is in a position to exercise "total or substantial control over the religious group's activities in Singapore" (Maintenance of Religious Harmony (Amendment) Bill 2019, S16B). The new law also restricts the nationality of the religious groups such that they may not appoint a responsible officer who is not a Singapore citizen or a Singapore permanent resident (Maintenance of Religious Harmony (Amendment) Bill 2019, S16D). Further, the new law will impose a new general reporting requirement for registered religious groups to declare any donation of at least $10,000 (Maintenance of Religious Harmony (Amendment) Bill 2019, S16A).

Thirdly, the law now includes "new" religious offences (as opposed to regulatory offences) under sections 17E and 17F. Section 17E of the Act criminalizes the knowing urging of violence against a target group or a member of a target group on religious grounds, as well as the urging of violence against a religious group. This is significant as it protects both religious groups from being targeted (for whatever reason) as well as religious and other groups from being targeted on religious grounds. Under the former, target groups can be distinguished "by religion or religious belief or activity, ethnicity, descent, nationality, language, political opinion, or by any other characteristic." The explanatory notes accompanying the bill state that target groups need not be only those who practice a certain religion, but could be made up of "atheists, individuals from a specific racial community, who share a similar sexual orientation, or have a certain nationality or descent like foreign workers or new citizens." The same provision specifically protects religious groups from incitement to violence. It criminalizes the knowing urging of force or violence against a target group distinguished only by religion or religious belief or activity. Unlike in section 17E(1) and (2), this urging of force or violence need not be based on any religion or religious belief or activity. The punishment for every offence under this new section is imprisonment for a term not exceeding 10 years and/or a fine.

The explanatory notes state that these provisions do not criminalize "religious hatred per se." What is important is that it signals a condition of mutuality by protecting religious groups from being targeted generally while also proscribing the use of religious grounds to target other groups. The inclusion of atheists and persons of particular sexual orientation in the explanatory notes as examples of target groups is particularly significant as these are groups that have, in the past, clashed with religious groups (Zaccheus and Tai 2015).

In addition to the new offence of urging violence against groups, a new section 17F in the MRHA incorporates offenses against religion that had been in the Penal Code. The 2019 amendment removes the religious elements in sections 298 and 298A of the Penal Code and repeals sections 295, 296, and 297. What is interesting about the new provisions is that they draw a clear distinction between the legal

obligations of religious leaders, on the one hand, and others who are not in positions of religious leadership, on the other. Sub-provisions (1) and (2) make it an offence if a person who is a religious leader knowingly engages in conduct that incites feelings of enmity, hatred, ill-will, or hostility against, or contempt for or ridicule of, a target group. It also makes it an offence for a religious leader to knowingly insult another religion or religious belief or activity, or to wound the religious feelings of another person. Domestic communications (such as between the accused and relatives or members of his/her household), which are intended to be heard or seen only by themselves, would not be caught under this act. Under the new sections 17F(3) and (4), the same acts done by a person who is not a religious leader would only invite criminal sanction where they "threaten the public peace or public order" in Singapore. The explanatory notes are clear that this offence does not extend to private conduct, and that it would be a defense if the conduct is intended to be heard or seen only by themselves and not in circumstances where the parties ought reasonably expect that it may be heard or seen by someone else. The punishment for this new section 17F is imprisonment for a term not exceeding 5 years and/or a fine.

Lastly, the new law formalizes an emergent reconciliation ritual and gives it the weight of law. This "community remedial initiative" entails the government offering to an alleged offender to undertake remedial actions, participate in activities or do some other thing to promote religious harmony in Singapore. There is no legal compulsion to engage in a community remedial initiative. However, there is clearly strong incentive for the alleged offender to do so as s/he will not be prosecuted or, if s/he has been charged, s/he will be granted a discharge not amounting to acquittal when the initiative comes into force.

The expansion of the MRHA could raise concerns that religious harmony is being used to impose even greater restrictions on rights, subordinating individual and group rights to state interests, and serve the aims of uniformity.

The jurisprudential understanding of religious freedom here may not conform to an individualistic freedom that preserves the widest possible negative liberty. However, it would also not be right to say that individual religious freedom would always be subordinated to religious harmony and other state interests. Under conditions of pluralism, there will always be some balancing of interests between individuals and communities (Jamal and Sheng Jie 2019).

This is not to say that there have not been occasions where the individual rights may appear to have been subordinated to the terms of religious harmony. One example in Singapore concerns criminal prosecutions of persons under the Sedition Act for having caused ill-will and hostility among different religious groups. In the 2009 case of *Ong Kian Cheong v. Public Prosecutor,* a Protestant Christian couple had anonymously mailed out Chick Publications tracts to Muslims whose addresses they had picked out of the directory. The Muslim recipients reported the mail to the police, the couple was located, and then charged. The testimony of the witnesses in court was reflective of the internalized norms of religious harmony. One witness said that he found the efforts materially offensive "because it could provoke or incite racial hatred." Another said that he objected to the publications because they "could incite religious tension between Muslims and Christians." Still, another witness testified that she was angered by the tracts as they denigrated Islam and said that the publication could have caused ill will between Muslims and Christians. Clearly, this case showed a restriction of the couple's right to religious proselytization, in favor of religious harmony. However, in many other incidents, there was a clear preference for non-legal solutions to advance the cause of religious harmony while preserving space for religious freedom and upholding the dignity of religious groups.

Coming back to the three incidents I highlighted in the introduction, one can see the religious harmony norm working both in and outside the legal domain. Imam Nalla was charged under the Penal Code for promoting enmity between different groups and prejudicing religious harmony. That may seem to some to be a heavy-handed response to a single stray prayer.

However, the real power of the religious harmony principle was manifest not in his criminal prosecution but in what happened outside of the court room. The weekend before he pleaded guilty and was sentenced, Imam Nalla issued an apology to a group of leaders representing various religious groups, including those from the Christian faith, at a closed-door meeting (*The Straits Times* 2017). He also visited a synagogue to apologize personally to the rabbi and the Jewish community (*The Straits Times* 2017). In addition, the Islamic Religious Council of Singapore (Majlis Ugama Islam Singapura, MUIS) issued a clear statement that such remarks have "no place in today's Singapore where all communities live in peace and harmony" (*Channel News Asia* 2017).

In the second incident, the church not only apologized but engaged the Taoist Federation in a reconciliatory act by having their representatives sing together publicly. Five years later, in 2015, the two organizations even co-organized an inter-faith concert to celebrate "Harmony in Diversity" (Osada 2015). Finally, in the last incident, the senior pastor of the organizing church in Singapore clarified that the American preacher Lou Engle's statement was "never meant to be an indictment against Muslims or the Muslim community in Spain as a whole," but was a reference to "radical Islamic insurgency, including ISIS (Islamic State in Iraq and Syria) advances into that nation with intentions of pressing its brand of militant ideology" (Zaccheus 2018). The pastor conveyed Engle's "apologies" for his "choice of words" which he said "might have caused unnecessary misunderstandings" (Zaccheus 2018). In addition, the senior pastor reaffirmed the participating churches' commitment to Singapore's "cohesive social fabric and religious harmony" (Zaccheus 2018). This was later followed by reciprocal visits by the pastor to a mosque in Singapore, by invitation by an imam, and subsequently, by the same imam to the church some months later (Rashith 2018).

Thio had previously pointed to the emergence of a "reconciliation ritual" to restore harmony (Thio 2019). It involves not only an offer and acceptance of apology, with promises to refrain from similar conduct in the future, but also "a publicly shared 'moment' for the mutual reaffirmation and recommitment to shared values" (Thio 2019). Often, ministerial-level approval of this "settlement" lends further social gravitas to the ritual and disposes of the "case." As Thio puts it, "[t]hese reconciliation rituals stir emotions" and "in motivating reciprocal compliance, it shapes behavior in future disputes" (Thio 2019). The performance of the ritual reaffirms social norms and what Thio calls "soft law norms" which "facilitates an environment where social trust and strong relational bonds can be cultivated through dialogue and diplomacy, reflecting the method and objective of relational constitutionalism" (Thio 2019). Religious harmony is thus realized *within* the framework of laws, but not necessarily *through* the framework of laws.

Conclusion: Deep Pluralism Requires Deep Answers

The concept of covenantal pluralism has the potential to reshape the terms of engagement for multi-faith peace. Chris Seiple's (2018b) call to change the terms of the debate from tolerance to respect, from religion to faith, from interfaith to multi-faith, from nationalism to patriotism, and finally from assimilation to integration reflects the need to grapple more deeply with plurality to forge deeper answers for pluralism. In this article, I have sought to argue that law, and in particular, religious harmony laws, when properly constructed and applied, could perform a crucial expressive function in bringing about a normative shift in social attitudes towards pluralism. There is of course no silver bullet to social strife and religious hostility, nor is there a single solution that works for all contexts. What this means is that we need legal-political principles that can serve the particular communities in each country. This is a time for creative and contextualized answers to the possibilities of pluralism. ❖

About the Author

Jaclyn L. Neo is Associate Professor of Law at the National University of Singapore and the Director of the Centre for Asian Legal Studies. She has held multiple visiting positions, including at Princeton University, Melbourne Law School, and the Max Planck Institute for the Study of Religious and Ethnic Diversity. Jaclyn has won multiple research grants and awards including the SHAPE-SEA Research Award for her research on religious freedom in Southeast Asia.

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ORCID

Jaclyn L. Neo http://orcid.org/0000-0001-9510-0167

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